

THE STATE OF TEXAS

Tarrant COUNTY

KATHLEEN SHANNON
AFFIDAVIT

Before me, Elizabeth Horton, a Notary Public in and for said County in said State, personally appeared Elizabeth Horton whose name is signed to this Affidavit and who is known to me, and who being by me first duly sworn deposes and says as follows:

1. That my name is Elizabeth Horton, and I reside in Montgomery County, Alabama, and I am over the age of 19 years.

2. I was employed for approximately two months through Kelly Services as a temporary employee assigned to work at a place of business operated by National Seating and Mobility, Inc., and because of that fact I was seeking permanent employment with other businesses that offered better opportunities.

3. Before and during my assignment to work at National Seating and Mobility, Inc., I understood that my employment was purely temporary; therefore I had no expectation that the employment would be made permanent.

4. The office of National Seating and Mobility, Inc., where I worked was managed by Mrs. Emily Williams and her husband, Don William was employed as a technician there.

5. During my short tenure with National Seating and Mobility, Inc., it became readily apparent that Don Williams had great influence at the office.

6. During the course of my employment with National Seating and Mobility, Inc., I came to know Felicia Barrow who was I learned employed with the Alabama Medicaid Agency.

7. I did not then nor do I now consider Ms. Barrow a friend.

8. During the course of my employment with National Seating and Mobility, Inc., NSM was interested only in profits not how its employees arrived at the profits.

9. I was not informed that my job performance at NSM was unsatisfactory to the extent that it could cause a problem with an agency that regulated NSM.

10. Retired special agent Michael Roeder apologized to me after I was acquitted on the charge of filing a false report with a law enforcement agency. He further informed me that defendant Shockley was upset with me because I did not meet with him for an interview.

11. I believed that the information I provided to the Alabama Medicaid Agency was true.

Further, Affiant saith not

Elizabeth Horton
Elizabeth Horton, Affiant

Sworn and subscribed to before me on this the 11th day of March, 2008.

Kathleen Shannon
Notary Public



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Anthony Green Deposition

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1 Q. Yes, sir. And the various prior
2 employers that you've listed, did you
3 have experience in investigating cases,
4 matters, events?

5 A. Yes, I did.

6 Q. And you said that your employment with
7 Medicaid has been two and a half years?

8 A. Yes, that's correct.

9 Q. And you are assigned as a special
10 investigator.

11 A. That's correct.

12 Q. And as a special investigator, what are
13 your duties and responsibilities?

14 A. We deal with cases involving Medicaid
15 fraud or suspected Medicaid fraud.

16 Q. And in your two and a half years with
17 Medicaid, how many cases have you
18 investigated, approximately?

19 A. I would think that a safe estimate
20 would be about seventy.

21 Q. About seventy?

22 A. Yes.

23 Q. And of the seventy cases, how many have

MERRILL LEGAL SOLUTIONS
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Anthony Green Deposition

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1 been confirmed on the allegations?

'2 A. I'm going to say 50 percent.

3 Q. And for the 50 percent that you were
4 not able to confirm the allegations,
5 were any arrests recommended or made as
6 a result thereof?

7 A. I'm sorry. Repeat that.

8 Q. Okay. For the 50 percent where the
9 claims or -- the claims of a person
10 alleging fraudulent activity were not
11 substantiated, were arrests the result
12 of it?

13 A. No.

14 Q. In your two and a half years with
15 Medicaid, have you ever known of a
16 complainant to be arrested for the
17 complaint not being confirmed?

18 A. The only case that I'm aware of is the
19 one that I'm presently here for.

20 Q. And that is Elizabeth Horton?

21 A. Yes, ma'am.

22 Q. What, if anything, was different about
23 her complaint, if you know?

RO372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: DC 2005 002380.00
 PER: VIL CASE ACTION SUMMARY
 AGE: 1 DISTRICT CRIMINAL RUN DATE: 08/08/2005
 IN THE DISTRICT COURT OF MONTGOMERY JUDGE: LUM

STATE OF ALABAMA VS HORTON ELIZABETH WALTON
 CASE: DC 2005 002380.00 2600 VAUGHN LAKES APTS
 #914
 MONTGOMERY, AL 36117 0000

DOB: 06/18/1963 SEX: F RACE: B HT: 5 05 WT: 125 HR: BLK EYES: BRO
 SSN: 432378397 ALIAS NAMES: HORTON BETH
 CHARGE01: FALSE REPORTING TO L CODE01: FRPD LIT: FALSE REPORTIN TYP: M #: 001
 OFFENSE DATE: 04/15/2005 AGENCY/OFFICER: 0030000 OLIVER

DATE WAR/CAP ISS: DATE ARRESTED: 08/05/2005
 DATE INDICTED: DATE FILED: 08/08/2005
 DATE RELEASED: 08/08/2005 DATE HEARING:
 BOND AMOUNT: \$1,500.00 S BURETIES: JJ'S RAPID BAIL BOND

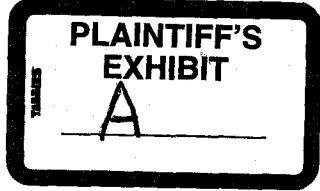
DATE 1: 08/15/2005 DESC: PLEA TIME: 0800 A
 DATE 2: DESC: TIME: 0000 STATE OF ALABAMA

TRACKING NOS: WR 2005 000444 00 /
 DEF/ATY: Thomas Goggans TYPE: MONTGOMERY COUNTY
 I, MELISSA RITTENOUR CLERK OF THE
 DISTRICT COURT OF MONTGOMERY
 COUNTY, HEREBY CERTIFY THAT THE
 WITHIN IS A TRUE AND CORRECT COPY
 OF THE CAS.

PROSECUTOR: Bruce Lieberman Ag. etc. 00000
 ON FILE IN SAID OFFICE.
 WITNESS MY HAND AND THE SEAL
 OF SAID COURT IS HERETO AFFIXED.
 THIS THE 24 DAY OF JAN. 08
 Melissa Rittenour
 CLERK DISTRICT COURT

OTH CSE: WR200500044400 CHK/TICKET NO:
 COURT REPORTER: SID NO: 0000000000
 DEF STATUS: BOND DEMAND:
 DATE ACTIONS, JUDGEMENTS, AND NOTES

8/8/05	Docket notice sent A + 5001
8/12/05	Plea of not guilty and waiver of arraignment fld by Thomas M. Goggans atty for A
8/12/05	Motion to Continue for trial setting.
8/15/05	Docket notice sent A, A atty + 5001
8/23/05	Iss'd (1) subp. (1) served
8/29/05	Motion to Continue Blankd LUM
8/30/05	Docket notice sent A, A atty, 5001, + Prosecutor
9/1/05	Request for Production
9/2/05	Order
9/7/05	Motion to Continue fld by State of Ala.
9/15/05	Iss'd (4) subp. Atty General etc
9-26-05	BENCH TRIAL HEND ON THIS DATE JUDGMENT OF ACQUITTAZ



1 for Medicaid?

2 A. From 1999 until 2005.

3 Q. And what was your position there?

4 A. I held several positions. Do you want
5 all of those in . . .

6 Q. Yes, ma'am.

7 A. Okay. I was a Medicaid Administrator I
8 with the medical services division in
9 1999. In 2001, I became the associate
10 director in the long-term care
11 division. And in 2003, I moved to the
12 prior approval unit, which was within
13 the medical director's office, where I
14 was associate director.

15 Q. All right. And why did you leave the
16 Medicaid Agency?

17 A. Oh, I left because of a better job
18 opportunity.

19 Q. All right. More money?

20 A. Yes. Yes.

21 Q. And during your employment with the
22 Medicaid Agency, did you address any
23 concerns regarding infractions or

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1 vendor that we would come in contact
2 with on a, you know, continuous basis.

3 Q. If someone told an investigator that
4 you and Ms. Horton were friends, would
5 they be lying?

6 MR. WALKER: Object to the
7 form.

8 A. I would not consider us friends.
9 Acquaintances perhaps, simply because
10 of the nature of dealing with one
11 another on a daily basis.

12 Q. So you knew her in the professional
13 capacity?

14 A. Yes.

15 Q. Did you ever attend a concert with her?

16 A. No, I didn't. She had informed me that
17 there was a concert that was happening
18 in the city. And she did not attend
19 the concert; however, I did, with a
20 friend of mine.

21 Q. What was your understanding of Don
22 Williams' position with National
23 Seating & Mobility at that time?

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1 Chaseley prior to Elizabeth coming on
2 board, I believe.

3 Q. Did Chaseley make any complaints or
4 talk about any infractions --

5 A. Not to me.

6 MR. WALKER: Object to the
7 form.

8 Q. Have you ever been told that anybody
9 stated that Emily Williams advised one
10 of the physical therapists not to place
11 dates on prescriptions?

12 MR. STEWART: Object to the
13 form.

14 MR. WALKER: Object to the
15 form.

16 A. I believe that we did get a phone call
17 from a therapist. One of my staff
18 members, one of my nurse reviewers, had
19 received a phone call and we were
20 questioning the date. She questioned
21 the date being missing. And he
22 informed her that they were told not to
23 put dates on the forms.

1 would look at the attachments to
2 Plaintiff's Exhibit #6.

3 (Brief pause while witness
4 reviews document)

5 A. Okay.

6 Q. Now, in your memo -- and I'll just
7 reference Plaintiff's Exhibit #6 --
8 your first statement in paragraph 1,
9 you say, Please find attached exhibits
10 of wheelchair assessments that have
11 been submitted by National Seating &
12 Mobility-Montgomery that were missing
13 the clinic dates. And I'm going to
14 show you once again the attachments to
15 Plaintiff's Exhibit #6, which is your
16 memo dated February 16, 2005. Now, is
17 this an example --

18 A. Yes.

19 Q. -- of clinic dates missing?

20 A. Yes.

21 Q. Is this a violation of the policy?

22 MR. STEWART: Object to
23 form.

1 A. That the vendor, National Seating &
2 Mobility, would be able to hold a
3 request for an unlimited period of time
4 and still submit it to the Medicaid
5 Agency without us being able to verify
6 the date in which the assessment was
7 actually done.

8 Q. And is this what you all consider as
9 fraudulent activity?

10 MR. STEWART: Object to the
11 form.

12 A. We consider --

13 MR. WALKER: Object to the
14 form.

15 A. I would say that it was inappropriate
16 in order for them to leave off dates.
17 It goes against policy.

18 Q. All right. Now, Plaintiff's
19 Exhibit #6, the memo states that two of
20 the assessments were conducted by Gerry
21 Rodgers, of physical therapy, and one
22 of Michael Maddox, RPT, both of
23 Children's Rehab Services. Okay?

1 Teresa Surles, a registered nurse,
2 questioned the assessments and was told
3 by Gerry Rodgers to get the dates from
4 Emily at National Seating. Now, is it
5 appropriate for Emily at National
6 Seating to give dates to place --

7 MR. STEWART: Object to
8 form.

9 Q. -- for clinic dates?

10 MR. WALKER: Object to the
11 form.

12 MR. STEWART: Object to
13 form.

14 A. As I understood it, Emily was the
15 person who would be working along with
16 the PT in clinic with the client. So
17 it would be appropriate for her to
18 provide a date.

19 Q. So this Children's Rehabilitation
20 Service report of visit, would Emily
21 provide a date for this visit?

22 A. Yes, it would be appropriate for her to
23 do so.

1 MR. STEWART: Object to the
2 form.

3 MR. WALKER: Object to the
4 form.

5 A. Yes, it is.

6 Q. Was this one of the complaints that
7 Elizabeth had against the company,
8 failure for them to place dates?

9 MR. STEWART: Object to the
10 form.

11 A. I do recall her mentioning that there
12 were dates missing from forms.

13 Q. Did she ever tell you that they wanted
14 her to fill in some of these dates?

15 MR. STEWART: Object to
16 form.

17 A. I don't recall if they were clinic
18 dates that they wanted her to fill in.

19 Q. But do you recall her saying they
20 wanted her to fill in any dates --

21 A. Yes.

22 Q. -- on any of the forms?

23 A. Yes.

1 dating the delivery tickets?

2 MR. WALKER: Object to the
3 form.

4 MR. STEWART: Object to the
5 form.

6 A. If a vendor does not put a date or have
7 the client date a delivery ticket, it
8 basically does not give the Medicaid
9 Agency any indication that the
10 equipment was delivered in the time
11 frame allowed by policy.

12 Q. And failure to deliver the equipment in
13 a timely manner, what would be the
14 adverse consequence?

15 MR. STEWART: Object to the
16 form.

17 A. It goes against policy. And that would
18 have been left up to the directors at
19 the agency as to what the consequence
20 would be.

21 Q. All right. Now, to continue reading in
22 the second paragraph for Plaintiff's
23 Exhibit #6, it says, Subsequent fax was

1 MR. STEWART: Object to
2 form.

3 MR. WALKER: Object to the
4 form.

5 A. Yes, because it goes against policy.

6 Q. And is it misleading the --

7 MR. STEWART: Object to the
8 form.

9 MR. WALKER: Object to the
10 form. Sorry. Go ahead.

11 Q. Is it misleading the Medicaid Agency?

12 MR. WALKER: Object to the
13 form.

14 MR. STEWART: Object to the
15 form.

16 A. Yes.

17 Q. And, actually, is it fair to say that
18 it's fraud?

19 MR. WALKER: Object to the
20 form.

21 MR. STEWART: Object to the
22 form.

23 A. Yes.

1 Q. Who told you that?

2 A. Mr. Rodgers.

3 Q. Now, this last sentence in paragraph --
4 in the third paragraph, Plaintiff's
5 Exhibit #6, you said, This was the same
6 information that was reported by former
7 National Seating employee, Elizabeth
8 Horton.

9 A. Yes.

10 Q. So Elizabeth Horton had reported the
11 same information that you witnessed
12 firsthand.

13 A. Yes.

14 Q. So based on what Ms. Horton had
15 reported and what you had reviewed, did
16 you request an investigation?

17 A. Yes, I did.

18 Q. Now, I'm going to show you what we'll
19 mark as Plaintiff's Exhibit #8.

20 (Plaintiff's Exhibit #8 was
21 marked for identification.)

22 MR. WALKER: I'm sorry,
23 Deborah. Which exhibit

ALABAMA MEDICAID AGENCY

February 16, 2005

MEMORANDUM

To: Mary G. McIntyre, M.D., M.P.H.
Medical Director
Office of the Commissioner

From: Felecia S. Barrow, M.P.A.
Associate Director
Prior Approval Unit

Re: Issues with Wheelchair Assessments Received

Please find attached examples of wheelchair assessments that have been submitted by National Seating and Mobility - Montgomery, that were missing the clinic dates. Two of the assessments were conducted by Gerry Rodgers, P.T. and one by Michael Maddox, R.P.T., both of Children's Rehab Services.

Teresa Surles, R.N. questioned the assessments and was told (by Gerry Rodgers) to get the dates from Emily, National Seating. I informed Teresa that the clinic dates should be kept at CRS where the assessment was conducted. Teresa, under my direction, contacted CRS to get the clinic date instead of Emily. Jackie (CRS) informed Teresa that the date of the clinic appointment was July 20, 2004. The PA request was submitted in February 2005. A subsequent fax was received from Gerry Rodgers indicating that the assessment was reviewed on 2/15/05 and was "still o.k." I conferred with Teresa and Debbie and thought that we needed updated clinic notes telling us the current condition of the client. On another client, both the physician's note of medical necessity and the P.T. assessment were lacking dates.

Teresa came across another assessment completed by M. Maddox and placed a call to the P.T. to find out why the date was missing. The P.T. replied, "...maybe we're not supposed to do this (pause), but I never put dates on the assessments or the prescriptions because it messes up the vendor"... "like, we're on a time clock..." It is odd that on the assessments that Mr. Maddox has done for other vendors have a date on them, but the ones done for National Seating do not have dates. This was the same information that was reported by former National Seating employee, Elizabeth Horton.

I would like to refer this information to Clifford Johnson, Chief Investigator, Program Integrity Division. If it is too premature at this point, I will wait.

**PLAINTIFF'S
EXHIBIT**

6 - Barrow

CHILDREN'S REHABILITATION SERVICE REPORT OF VISIT

SSN: PATIENT: KATIE LYNN SMITH DATE:

Katie Lynn is a cute little 4-year-old. She is very premature. She had hydrocephalus and CP. Mary has followed her and is concerned with her left hip and her right heelcords. On exam, there are problems with the left leg and left tendo-achilles. There are definitely tight, and I cannot get it quite to neutral. Right side is passively correctable, but she does have increased tone, and she likes to hold it in equinos. On my exam, the hips feel steady and leg lengths appear to be equal. I really think an AP and frog lateral hip x-rays would be appropriate. We are going to do serial casting on the left leg. She will need a set of fixed AFOs. I will see her back in this clinic in three months.

(Joseph Curtis, M.D.)/sl

CHILDREN'S REHABILITATION SERVICE REPORT OF VISIT

SSN: PATIENT: KATIE LYNN SMITH

PHYSICAL THERAPY:

Katie Lynn is unable to ambulate and needs a chair for mobility. She is getting too long to be carried and she has good use of her upper extremities so we would like for her to be able to push some whe she is in a seated position. She goes to daycare at school, and they need a way to get her around in these areas also. I feel that at this point due to the family situation, we may need to get a stroller that can be transported in many different vehicles that is easy to fold up and easy to get around. We can also get some large wheels where she can push herself on it sometimes. Katie Lynn can sit up with hand supports so I feel like with a five-point harness, she could sit up in the stroller very well. A prescription for this was given to Don from National Seating and Mobility today. She does not have current EPSDT, and once this is done, we need to get a copy and forward it over to National Seating along with a copy of this clinic dictation so that they can submit it to Medicaid. Once it is approved, will be ordered. When it comes in, we will schedule a time for delivery. She had a wheelchair recommended a couple of years ago through Seating Clinic. It was approved and ordered, but we were never able to get a hold of the family for delivery, so the chair had to be sent back. Katie Lynn much larger than she was then, so what we ordered then would not be appropriate, and we need a new seating system this time.

~~001205140110~~

(Garry Rodgers, PT, PQS)/sl

CHILDREN'S REHABILITATION SERVICE REPORT OF VISIT

SSN: 424-25-9651

PATIENT: JASMINE WILLIAMS

(7/20/04 per Jackie@CRS)

PHYSICAL THERAPY:

Jasmine's seating system has been wearing out. Foam is visible through most of the different pads and seating systems. In addition, her scoliosis has worsened, and her spine is actually shortened, so the back is too tall. In addition, the back posts get out of whack according to the mom. They were uneven today, and I evened them back up. I described the rigidizing bar that would go in-between there, but it would be one more step in folding the chair. Mom would like to go ahead and do this. We need to repair the brake on the left side of the chair. Otherwise, the frame is in pretty good shape. I do think that we need to get her new seating to continue to support her in her wheelchair. She needs a solid seat and back, thoracic pads and hip guides to keep her trunk and hips in the midline. She needs an abductor to keep her hips apart. Her right leg tends to adduct excessively. She needs a three-piece headrest for posterior and lateral head support. She needs a rigidizer bar to keep the frame from getting out of line and brake repair on the left. EPSDT and prescription were given to Emily from National Seating and Mobility. We need to send a copy of this clinic dictation to her so that she can submit it to Medicaid. Once the approval is received from Medicaid, the chair will be ordered. When it comes in, we will schedule a time for delivery.

(Gerry Rodgers, PT, PCS)/sl

1 billing activities.

2 Q. And failure to put in dates, would that
3 be connected to the billings?

4 MR. STEWART: Object to the
5 form.

6 A. That would be connected to billing.

7 Q. All right. So if they manipulate
8 dates -- if National Seating &
9 Mobility, Don Williams, Emily Williams,
10 were manipulating dates on these clinic
11 dates and the delivery dates, that
12 affects billing --

13 A. Yes.

14 MR. STEWART: Object to the
15 form.

16 MR. WALKER: Object to the
17 form.

18 Q. -- and would amount to fraudulent
19 billing practices?

20 MR. WALKER: Object to the
21 form.

22 MR. STEWART: Object to the
23 form.

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1 A. Yes.

2 Q. All right. I'm just going to ask you
3 about this because I don't know myself
4 what that means. You may recognize
5 that screen. I'm not even sure if I'm
6 going to admit that as an exhibit. Is
7 that some kind of computer screen or
8 something maybe?

9 A. Yes.

10 Q. If you don't recognize it, that's fine.
11 Do you recognize that?

12 A. Yes.

13 Q. Well, what is this document?

14 A. This is their provider eligibility
15 screen, which allows us to put in a
16 provider number and bring up the
17 information, basically, on the
18 provider. It should give the effective
19 date of enrollment as a Medicaid
20 provider as well as their specialty
21 type, if there is one.

22 Q. Would it also allow you to print out a
23 list of the recipients --

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Felecia Barrow Deposition

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1 at the delivery tickets and the dates
2 and -- that were on the delivery
3 tickets.

4 Q. And what, if anything, did you find?

5 A. We did not find any discrepancies as,
6 if we had found something, we would
7 have caught it in the beginning.

8 Q. All right. But it's your position
9 today that you did find infractions on
10 your own. Am I correct?

11 A. Yes.

12 MR. STEWART: Object to the
13 form.

14 MR. WALKER: Object to the
15 form.

16 Q. And you did bring those to the
17 attention of the investigator?

18 A. Yes.

19 MS. NICKSON: All right. No
20 further questions.

21 EXAMINATION

22 BY MR. STEWART:

23 Q. We met before we began, Ms. Barrow.

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Clifford Johnson Deposition

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1 Medicaid Agency?

2 A. I'm the chief investigator for the
3 investigation unit.

4 Q. And how long, Mr. Johnson, have you
5 been with them?

6 A. With Medicaid?

7 Q. Yes, sir.

8 A. Since 1993. So what's that?

9 Q. Okay. Well, what, about sixteen years
10 or thirteen, fourteen years?

11 A. Yeah.

12 Q. Yes.

13 A. That sounds right.

14 MR. STEWART: Lawyers aren't
15 good at math.

16 Q. So you've been with the Medicaid Agency
17 for approximately fifteen years?

18 A. Yes.

19 Q. And you're the chief?

20 A. Yes, ma'am.

21 Q. Excellent. And Mr. Anthony Green, does
22 he work under your supervision?

23 A. Yes, he does.

1 They was asking her questions on the
2 line as what information did she
3 receive regarding National Seating &
4 Mobility and -- regarding them not
5 having provided services or supplies to
6 Medicaid recipients regarding
7 wheelchairs. So all the exact details,
8 I don't remember. I don't recall.

9 Q. Do you remember Felecia saying anything
10 about she had documentation to support
11 the fact that they did have missing
12 dates on some of their documents?

13 A. I would have to say yes.

14 MR. STEWART: Object to
15 form.

16 A. Yes, ma'am.

17 Q. Do you remember her discussing
18 infractions at National Seating &
19 Mobility submitted to her department?

20 MR. STEWART: Object to
21 form.

22 A. I'm trying to understand the question.

23 Q. Such as missing dates on forms.

1 MR. STEWART: Same

2 objection.

3 A. Yes.

4 Q. What, if anything, did she say?

5 A. Again, I would have to say something on
6 the line where she would say they
7 received forms or documentation from
8 the company where certain dates were
9 not on the form for -- I guess missing
10 dates or . . .

11 Q. And was that part of Elizabeth Horton's
12 complaint as you understood it?

13 A. Yes, ma'am. I would say so, yes.

14 Q. And did Ms. Barrow say that she had
15 personal knowledge or just received
16 information in her office of the same?

17 A. Yes.

18 Q. Investigator Green did the
19 investigation at the office of National
20 Seating & Mobility here in Montgomery.
21 You reviewed his complaint where you
22 said he didn't find any criminal
23 activity.

1 corrections are made, then the
2 investigator has no other choice but to
3 conclude no criminal activity?

4 MR. WALKER: Objection to
5 form.

6 MR. STEWART: Object to
7 form.

8 A. Yes, ma'am.

9 Q. All right. Let me show you Plaintiff's
10 Exhibit #3, Bates Drab Page 14. If you
11 would, let us look at Paragraph No. 2.
12 Could you read that for the record,
13 please.

14 A. Teresa Surles, RN, questioned the
15 assessment and was told by Gerry
16 Rodgers to get the dates from Emily,
17 National Seating. I informed Teresa
18 that the clinic dates should be kept at
19 CRS where the assessment was conducted.
20 Teresa, under my direction, contacted
21 CRS to get the clinic dates instead of
22 Emily. Jackie, CRS, informed Teresa
23 that the date of the clinic appointment

1 was July 20th, 2004. The PA request
2 was submitted in February 2005. A
3 subsequent fax was received from Gerry
4 Rodgers indicating that the assessment
5 was reviewed on 2/15/05 and was still
6 okay. I conferred with Teresa and
7 Debbie and thought that we needed
8 updated clinic notes telling the
9 current condition of the clinic. On
10 another client, both the physician
11 notes and medical necessity and the PT
12 assessment were lacking dates.
13 Q. So when they failed to put dates on the
14 assessments, doesn't that alter the
15 system?

16 MR. STEWART: Object to the
17 form.

18 MR. WALKER: Object to the
19 form.

20 Q. Requirements.

21 A. Yes, ma'am.

22 Q. So that's actually where the fraud
23 occurred. Am I correct?

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Court Reporting*Legal Videography*Trial Services

Clifford Johnson Deposition

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1 Q. So is it fair to say that this
2 assessment by Teresa Surles questioning
3 the assessments and missing dates,
4 would that pretty much be lining up
5 with the complaint that Elizabeth
6 Horton had?

7 MR. STEWART: Object to the
8 form.

9 A. Yes, ma'am.

10 MR. WALKER: Object to the
11 form.

12 Q. Was that a yes, Mr. Johnson?

13 MR. STEWART: Object to the
14 form.

15 A. Yes.

16 Q. All right. Now, if we can read the
17 next paragraph for the record.

18 A. Teresa came across another assessment
19 completed by M. Maddox and placed a
20 call to the PT to find out why the
21 dates was missing. The PT replied,
22 Maybe we're not supposed to do this,
23 pause, but I never put dates on the

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Clifford Johnson Deposition

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1 assessment or the prescription because
2 it messes up the vendors, like we're on
3 a time clock. It is odd that the
4 assessments that Mr. Maddox has done
5 for other vendors have a date on them,
6 but the ones done for National Seating
7 do not have dates. This was the same
8 information that was reported by former
9 National Seating employee, Elizabeth
10 Horton.

11 Q. Now, looking at this document, you have
12 the same thing that Elizabeth Horton
13 complained of. You have a Medicaid
14 Agency employee that's firsthand
15 witness to it. Am I correct?

16 MR. STEWART: Object to
17 form.

18 MR. WALKER: Object to form.

19 A. That's correct.

20 Q. All right. Just based on this memo.

21 A. Yes.

22 Q. And this memo is written by whom?

23 A. Felecia Barrow.

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1 MR. WALKER: Same.

2 A. No, ma'am.

3 Q. Does anybody know what he meant when he
4 said, according to Teresa, that I never
5 put dates on the assessment?

6 A. No, I don't know.

7 Q. Did anybody find out what he meant when
8 he said the prescriptions -- or the
9 prescriptions because it messes up the
10 vendor?

11 MR. WALKER: Object to the
12 form.

13 MR. STEWART: Same.

14 A. And the question is?

15 Q. Did anybody find out what he meant by
16 that?

17 MR. WALKER: Same.

18 MR. STEWART: Same
19 objection.

20 A. No, ma'am.

21 Q. Now, I'm just asking you as an
22 investigator. If you got National
23 Seating & Mobility know that they need

1 dates, then you have a physical
2 therapist consistently submitting
3 assessments or prescriptions without
4 dates, then you have your Medicaid
5 employee, Felecia Barrow, receiving
6 information, how can any report that
7 Felecia Barrow gave be fraudulent?

8 MR. STEWART: Object to
9 form.

10 MR. WALKER: Object to form.

11 Q. I mean not Felecia but Elizabeth Horton
12 gave be fraudulent?

13 MR. STEWART: Same
14 objection.

15 MR. WALLACE: Objection to
16 form.

17 MR. WALKER: Object to the
18 form.

19 A. It can't be.

20 Q. So doesn't this suggest that there was
21 some kind of evidence or there was
22 something going on at National
23 Seating & Mobility?

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1 by either party hereto provided for by
2 the Federal Rules of Civil Procedure.

3
4 * * * * *

5
6 ANTHONY L. GREEN
7 The witness, having first been duly
8 sworn or affirmed to speak the truth,
9 the whole truth, and nothing but the
10 truth, testified as follows:

11 THE REPORTER: Usual federal
12 stipulations?

13 MS. NICKSON: Yes.

14 MR. WALKER: Yes.

15 EXAMINATION

16 BY MS. NICKSON:

17 Q. Would you state your name for the
18 record.

19 A. I'm Special Investigator Anthony L.
20 Green.

21 Q. Mr. Green, I am Deborah Nickson. I am
22 a local attorney here in Montgomery and
23 I represent Elizabeth Horton, who is a

1 MR. STEWART: Object to
2 form.

3 MR. WALKER: Same objection.

4 Q. You can answer.

5 A. Yes, I did.

6 Q. And first let me ask you, you said you
7 are a special investigator. And with
8 what division?

9 A. Alabama Medicaid Agency.

10 Q. How long have you been with the
11 Medicaid Agency?

12 A. Approximately two and a half years.

13 Q. Two and a half years?

14 A. Yes, ma'am.

15 Q. And what did you do prior to that?

16 A. Prior to that, I worked for the
17 Veterans Administration as a police
18 officer. I was lieutenant of
19 operations for Tuskegee University
20 Security Department. I worked with the
21 New York State Police for twenty-one
22 years, and I was in the military prior
23 to that.

1 Q. Yes, sir. And the various prior
2 employers that you've listed, did you
3 have experience in investigating cases,
4 matters, events?

5 A. Yes, I did.

6 Q. And you said that your employment with
7 Medicaid has been two and a half years?

8 A. Yes, that's correct.

9 Q. And you are assigned as a special
10 investigator.

11 A. That's correct.

12 Q. And as a special investigator, what are
13 your duties and responsibilities?

14 A. We deal with cases involving Medicaid
15 fraud or suspected Medicaid fraud.

16 Q. And in your two and a half years with
17 Medicaid, how many cases have you
18 investigated, approximately?

19 A. I would think that a safe estimate
20 would be about seventy.

21 Q. About seventy?

22 A. Yes.

23 Q. And of the seventy cases, how many have

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1 been confirmed on the allegations?

2 A. I'm going to say 50 percent.

3 Q. And for the 50 percent that you were
4 not able to confirm the allegations,
5 were any arrests recommended or made as
6 a result thereof?

7 A. I'm sorry. Repeat that.

8 Q. Okay. For the 50 percent where the
9 claims or -- the claims of a person
10 alleging fraudulent activity were not
11 substantiated, were arrests the result
12 of it?

13 A. No.

14 Q. In your two and a half years with
15 Medicaid, have you ever known of a
16 complainant to be arrested for the
17 complaint not being confirmed?

18 A. The only case that I'm aware of is the
19 one that I'm presently here for.

20 Q. And that is Elizabeth Horton?

21 A. Yes, ma'am.

22 Q. What, if anything, was different about
23 her complaint, if you know?

1 MR. STEWART: Object to
2 form.

3 A. From my perspective, it was, I would
4 say, a regular complaint. There was
5 nothing that I can think of that was
6 different from any of the other various
7 complaints we've received.

8 Q. Let's talk about how you got involved
9 in the case. How did you get involved
10 with the complaint that was allegedly
11 made by Elizabeth?

12 A. I received it in the same manner we
13 receive virtually all our cases. The
14 cases come in and my supervisor, Chief
15 Investigator Cliff Johnson, assigned
16 the case to me.

17 Q. Yes, sir. And did he give you a file?

18 A. Yes, he did.

19 Q. Do you remember what was contained in
20 the file?

21 A. There would have been a standard
22 complaint form, which would have
23 contained the basic allegation; the

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1 Q. Does that mean that there's a prior
2 investigation?

3 A. Yes.

4 Q. Okay.

5 A. And from that point on, it's just
6 information that I came through during
7 the course of my investigation.

8 Q. All right. During the course of your
9 investigation, did you talk with a
10 young lady by the name of Chaseley
11 Weeks?

12 A. Yes, I did.

13 Q. What, if anything, did Ms. Weeks tell
14 you?

15 A. I spoke with Ms. Weeks, and basically
16 she informed me that she worked at
17 National Seating & Mobility; she's no
18 longer employed there. I'd just like
19 to refer back to see exactly what I
20 wrote.

21 Q. Yes, sir, you can.

22 A. Okay. I spoke with Ms. Weeks
23 initially, and she had agreed to meet

1 office had also conducted an
2 investigation on this. I requested a
3 copy of their report; and from there, I
4 went through to see who their
5 complainants and witnesses were, and I
6 attempted to contact individually the
7 same people. And -- and with finding
8 out that Elizabeth Horton was a
9 complainant in this case, that's pretty
10 much how I came in on her and that's
11 why she was contacted.

12 Q. And what, if anything, did Elizabeth
13 tell you?

14 A. I had several conversations with
15 Elizabeth -- should be Ms. Horton.
16 Over the course of our conversations,
17 she advised me that she felt that there
18 were some things going on with National
19 Seating & Mobility that she felt may
20 have been fraudulent.

21 Q. So her statements were pretty much one
22 and the same as Chaseley Weeks'?

23 A. Yes.

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1 form.

2 MR. WALKER: Object to the

3 form.

4 A. My opinion of Ms. Horton was that she
5 had information that she thought and
6 she suspected that something was going
7 on that wasn't correct or appropriate.
8 Do I think she was a liar? From my --
9 my time with her, no, I don't think she
10 was lying to me. But I will say that
11 one of the problems I did have with
12 Ms. Horton was after -- actually, she
13 was very, very, very, very difficult to
14 get in touch with, which made it very
15 difficult to follow up on some of the
16 information to keep the investigation
17 going. I believe that she believed
18 something was going on, but I don't
19 believe that she was as cooperative as
20 she could have been and possibly as she
21 should have been.

22 Q. Did she give the impression that she
23 didn't want to get involved?

1 MR. STEWART: Object to the
2 form.

3 A. My gut feeling?

4 Q. Uh-huh.

5 MR. WALKER: Object to the
6 form.

7 Q. You have two complainants. You have
8 Chaseley Weeks, former employee, said
9 something is going on. Then you have
10 Elizabeth Horton, a former employee,
11 saying something was going on. What
12 was your gut feeling?

13 MR. STEWART: Object to the
14 form.

15 MR. WALKER: Same objection.

16 A. My only gut feeling was, is they
17 contacted with a complaint, as do many
18 other people. When I receive a
19 complaint, I assume that the people
20 that are calling believe that their
21 complaint is legitimate; and I look
22 into it from that basis until I prove
23 or disprove. So my gut feeling was, is

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1 that they believe that they had
'2 something that they should notify us
3 about. I received the information; I
4 looked into it until I was satisfied
5 that there was nothing there.

6 Q. Okay. I'm going to show you this
7 document, and this will be Bates
8 Drab 14. Would you identify this
9 document for the record, please?

10 A. This is a document that was generated
11 by the Alabama Medicaid Agency
12 February 16th of 2005. This is a
13 memorandum from Dr. McIntyre, who's
14 medical director for the Medicaid
15 Agency.

16 Q. All right. If you would, just read
17 that first sentence for the record for
18 me, please.

19 A. Where it says --

20 MR. WALKER: It's from
21 Felecia Barrow, is who
22 it's to.

23 Q. Okay. The memorandum is to whom?

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1 A. The memorandum is to -- I'm sorry. The
2 memorandum is to Dr. McIntyre and it's
3 from Ms. Barrow.

4 Q. And who is Dr. McIntyre?

5 A. Dr. McIntyre is the medical director at
6 Medicaid.

7 Q. And Felecia Barrow, who is she?

8 A. She's a former employee of Medicaid.
9 She was the associate director for the
10 prior approval unit.

11 Q. And she's writing this memorandum in
12 reference to?

13 A. Issues with wheelchair assessments
14 received.

15 Q. Now, in the first paragraph, what does
16 she state?

17 A. It's just saying that -- she's saying,
18 Please find an example of wheelchair
19 assessments that have been submitted by
20 National Seating & Mobility in
21 Montgomery that were missing client
22 dates.

23 Q. Clinic dates.

1 way that Elizabeth had a malicious
2 intent to harm National Seating &
3 Mobility, Don Williams, or Emily
4 Williams?

5 MR. WALKER: Object to the
6 form.

7 MR. STEWART: Object to the
8 form.

9 A. I don't know what her intent was. The
10 only thing I knew is that she had a
11 complaint and I just investigated the
12 complaint.

13 Q. But she was like a normal complainant?

14 MR. STEWART: Object to the
15 form.

16 MR. WALKER: Object to the
17 form.

18 A. Yes.

19 Q. Did she ever express maliciousness?

20 MR. STEWART: Object to the
21 form.

22 MR. WALKER: Object to the
23 form.

1 A. Not to me, no.

2 MS. NICKSON: All right. No
3 further questions.

4 EXAMINATION

5 BY MR. WALKER:

6 Q. Let me ask you a question, please, sir.
7 If you would look at Exhibit #1 and,
8 particularly, if you would look at
9 page 2 and if you would read the
10 paragraph, summary of fraudulent
11 activity.

12 A. On June 1st, 2006, I met with Ms. Emily
13 Williams -- if I can skip the
14 abbreviations there -- with National
15 Seating & Mobility, 646 Oliver Road,
16 Montgomery, Alabama, and Tim Maddox of
17 National Seating & Mobility, 377
18 Riverside Drive, Suite 300, Franklin,
19 Tennessee, and reviewed -- and reviewed
20 the requested files. A review of these
21 files revealed no signs of any criminal
22 activity or wrongdoing. At no time did
23 this investigation reveal any signs of '

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